



DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Jonathan Rosenfield, M.D.; Decision and Order

On March 31, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Jonathan Rosenfield, M.D. (hereinafter, Registrant). OSC, at 1 and 3. The OSC proposed the revocation of Registrant's Certificates of Registration Nos. FR4795780 and FR5759216 at the registered addresses of 393 Georgia Avenue SE, Atlanta, Georgia, and 1077 South Main Street, Madison, Georgia. *Id.* at 1. The OSC alleged that Registrant's registrations should be revoked because Registrant is "without authority to handle controlled substances in Georgia, the state in which [he is] registered with DEA for [both] registrations." *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in its Request for Final Agency Action (RFAA) dated May 31, 2022.¹

FINDINGS OF FACT

A DEA Diversion Investigator attested that he became aware of the lapse in Registrant's Georgia medical license in the course of his official duties and confirmed the lapse on the state website and also "through conversations with those at the Georgia Composite Medical Board." RFAA, App. 2, at 3. According to Georgia's online records, of which the Agency takes official notice, Registrant's Georgia medical license expired on March 31, 2021, and is currently in a "lapsed" status.² Georgia Composite Medical Board, <https://gcmb.mylicense.com/verification>

¹ Based on the two Declarations from DEA Diversion Investigators that the Government submitted with its RFAA, the Agency finds that the Government's attempts to serve Registrant with the OSC were adequate. RFAA, Apps. 1-2. Further, based on the Government's assertions in its RFAA, the Agency finds that more than thirty days have passed since Registrant was served with the OSC and Registrant has neither requested a hearing nor submitted a written statement or corrective action plan and therefore has waived any such rights. RFAA, at 4; *see also* 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C).

² Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding – even in the final decision." United States Department of Justice, Attorney General's Manual on the

(last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not currently licensed to engage in the practice of medicine in Georgia, the state in which Registrant is registered with the DEA.

DISCUSSION

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.”

With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner’s registration. *See, e.g., James L. Hooper, M.D.*, 76 FR 71,371 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27,616, 27,617 (1978).³

According to Georgia statute, “dispense” means “to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.” Ga. Code Ann. § 16-13-21(9) (2022). Further, a “practitioner”

Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” Accordingly, Registrant may dispute the Agency’s findings by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by e-mail to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.usdoj.gov.

³ This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR 71,371-72; *Sheran Arden Yeates, M.D.*, 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 FR 27,617.

means a “physician . . . or other person licensed, registered, or otherwise authorized under the laws of [Georgia] to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in [Georgia].” *Id.* at § 16-13-21(23)(A). Because Registrant is not currently licensed as a physician, or otherwise licensed in Georgia, he is not authorized to dispense controlled substances in Georgia. Therefore, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant’s DEA registration be revoked.

ORDER

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificates of Registration Nos. FR4795780 and FR5759216 issued to Jonathan Rosenfield, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending applications of Jonathan Rosenfield, M.D. to renew or modify these registrations, as well as any other pending application of Jonathan Rosenfield, M.D. for additional registration in Georgia. This Order is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

SIGNING AUTHORITY

This document of the Drug Enforcement Administration was signed on June 21, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the Federal Register.

Scott Brinks,

Federal Register Liaison Officer,

Drug Enforcement Administration.

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